

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte: NEIL COOPER

Application No. 09/904,989

MAILED  
DEC 14 2007

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on December 6, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

**EXAMINER'S ANSWER**

**New Grounds of Rejection**

On June 21, 2007, an Examiner's Answer was mailed. The Examiner's Answer includes a new ground of rejection, where claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable Bondy et al. (U.S. 5,491,813) in view of Keller et al. (U.S. 5,752,032) and Schoening et al. (U.S. 6,226,788) further in view of Shirakabe et al. (U.S. 5,136,709). A review of the application reveals that the Final Rejection mailed June 5, 2006, rejected claim 16 under 35 U.S.C. 103(a) as being unpatentable Bondy et al. (U.S. 5,491,813) in view of Keller

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et al. (U.S. 5,752,032) further in view of Shirakabe et al. (U.S. 5,136,709).

When a new ground of rejection is introduced in the Examiner's Answer, the Examiner is required to obtain approval of the Technology Center Director or his/her designee. Further, any new ground of rejection is required to be prominently identified, e.g., a separate heading with all capitalized letters. See MPEP § 1207.02(A)(6)(d).

To correct this problem, the examiner will need to vacate the Examiner's Answer mailed June 21, 2007, and mail a Supplemental Examiner's Answer with the approval of the Technology Center Director or designee.

### **CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

- 1) issue and mail a revised Examiner's Answer properly identifying any new grounds of rejection; and
- 2) for such further action as may be appropriate.

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By:

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PJN/tsj

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